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Columbus, OH 43218-2452

October 23, 2023

[claims@everestglobal.com](mailto:claims@everestglobal.com)

Everest Insurance Company of Canada  
100 Everest Way  
Warren, NJ 07059

RE: Matter:	Brooke Mann v. LNKBox Group, Inc. et al.
Claim No.:	02148759
Claimant:	Brooke Mann
Date of loss:	9/24/2021
Scottsdale Insured:	Trickle Productions, LLC
Scottsdale Policy No.:	CPH7202362
Scottsdale Policy Term:	5/21/2021-5/21/2022
Underwriting Co.:	Scottsdale Surplus Lines Insurance Company
Everest Insured:	Apex Event Management, LLC
Everest Policy Nos.:	SI8ML02321-211; SI8EX01760-211

Dear Sir or Madam:

Please be advised that Nationwide E&S/Specialty has received the above-referenced claim under the above-referenced policy underwritten by Scottsdale Surplus Lines Insurance Company ("Scottsdale") and issued to Trickle Productions, LLC (Trickle). This matter pertains to injuries sustained by Brooke Mann while attending the Lost Lands Music Festival (the "Event") on September 4, 2021. The lawsuit alleges that Plaintiff was injured when a tractor and tram owned by FlexTram, driven by defendant Ryan Axford, overturned, as Plaintiff was being transported from the Event Campsite to the Event concert Area. The lawsuit alleges negligence by the Defendants proximately caused her injuries (see attached lawsuit).

Apex has filed a cross-claim against Laura and Steve Trickle d/b/a Trickle Productions, seeking contribution and/or indemnity (both contractual and implied) against Laura and Steve Trickle d/b/a Trickle Productions as well as the other defendants.

It is our understanding that Trickle rented their venue to Apex Management LLC ("Apex"), which hired AEG Presents, LLC ("AEG") to manage the event. AEG hired Madison House Presents LLC ("Madison")

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to hire staff and handle the transportation at the event, and Madison hired LNKBox Group, Inc. and FlexTram LLC to transport concert goers from parking lots to the concert venue.

It is also our understanding that your insured, Apex, entered into a Venue Lease Agreement (the "Agreement") with Trickle pertaining to the Event (see attached Agreement).

The Agreement includes the following:

4. Condition of Site:

4.1 The Site shall be delivered in "as is" condition. The existing condition will be jointly documented and agreed upon before each Event during a walk through with representatives from Landlord and Tenant.

The Agreement requires Apex to:

9.1 maintain...a commercially reasonable policy or policies of General Liability Insurance.... Landlord [Trickle] shall be named as an additional insured, as its interests may appear, under such liability insurance policies.

Additionally, the Agreement sets forth:

To the extent permitted by law and except to the extent due to the negligence or willful misconduct of Landlord or its guests, employees, agents or contractors, Tenant [Apex] agrees to protect, defend, indemnify and hold Landlord harmless from and against all liabilities, claims, expenses, losses and damages (including reasonable attorney fees and costs), arising as a result of or in connection with any Tenant Events, or the actions of Tenant and its employees, agents, guests, and contractors on the Site during the Term.

The attached Certificate of Insurance issued to Apex confirms that Trickle Productions, as well as Steve and Laura Trickle, were "included as an additional insured and loss payee as respects the operations of the Named Insured" and indicates that Everest Insurance Company of Canada issued a Commercial General Liability policy and an umbrella liability policy to Apex. This coverage was "for the entire Lost Lands Event..."

We are seeking defense and indemnification on Apex's policies based on both additional insured status and contractual indemnification for both the lawsuit filed by Plaintiff and the cross-claim filed by Apex, for Laura and Steve Trickle d/b/a Trickle Productions under the Everest policy in accordance with the Agreement and the Certificate of Insurance issued to Apex.

Please be advised that the policy issued by Scottsdale to Trickle contains the following endorsement which reads as follows:

**GLH-152s**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT  
CAREFULLY.**

**EXHIBIT L-2**

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#### **AMENDMENT TO OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

#### **COMMERCIAL GENERAL LIABILITY COVERAGE PART**

Condition 4. Other Insurance of **SECTION IV—COMMERCIAL GENERAL LIABILITY CONDITIONS** is deleted in its entirety and is replaced by the following:

#### **4. Other Insurance**

##### **Primary Insurance**

This insurance is primary except when b. below applies.

##### **Excess Insurance**

(1) This insurance is excess over any other insurance, whether primary, excess, contingent or on any other basis:

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

If the loss arises out of the maintenance or use of aircraft, "auto" or watercraft to the extent not subject to Exclusion g. of Coverage A (SECTION I); or

That is valid and collectible insurance available to any insured under any other policy.

(2) When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit." If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

(3) When this insurance is excess over other insurance, we will pay only the amount of the loss, if any, that exceeds the sum of:

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(a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(b) the total of all deductible and self-insured amounts under all other insurance.

If a loss occurs involving two or more policies, each of which states that its insurance be excess, then our policy will contribute on a pro rata basis.

Endorsement GLH-152s (8-16)- Amendment to Other Insurance Condition provides that this insurance is excess over any other insurance that is valid and collectible insurance available to any insured under any other policy. Since there is valid and collectible insurance available to our insured through Everest, the Everest policy(ies) would provide primary coverage for this matter and Scottsdale has no obligation to defend it in this matter.

Time is of the essence given suit has been filed against your additional insureds. Please confirm by November 1, 2023, that Everest Insurance will provide Laura and Steve Trickle d/b/a Trickle Productions with a defense and indemnity for both the lawsuit filed by Plaintiff and the cross-claim filed by Apex. If your response is anything other than a complete acceptance of the tender, please provide a copy of Apex's insurance policies so that we can determine if there has been a breach of the promise to provide insurance coverage for our insureds.

Nothing in this letter is intended as a waiver of any rights, all of which are expressly reserved. Feel free to contact the undersigned with any questions.

The state of Ohio requires we advise of the following: Any person who, with intent to defraud or knowing that he/she is facilitating a fraud against an insurer, submits an application or files a claim containing a false or deceptive statement is guilty of insurance fraud

Sincerely,

*Deborah B. Rosenthal*

Deborah B. Rosenthal, Esq.  
Senior Claims Consultant  
480-365-2839  
E-mail: [rosend3@nationwide.com](mailto:rosend3@nationwide.com)

Encl:

Amended complaint  
Lease Agreement  
COI Apex

cc: Addressee via Regular Mail

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APEX Event Management, LLC  
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